IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 19TH NOVEMBER 2007 / 28TH KARTHIKA 1929

Crl.MC.No. 3469 of 2007()

C.C.NO.461/05 OF THE JFCM, PAYYANNUR.

PETITIONER: COMPLAINANT AND ACCUSED NO.1 TO 4

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1. PALLIPPARAMBA RYHANATH, AGED 27 YEARS,
   S/O K.E.IBRAHIM KUTTY,
   NEAR CHALIL GRAMBI PALLI, MATTUL CENTRAL,
   P.O.MATTOOL, KANNUR DISTRICT.

2. KOYAKKARA PUTHIYA PURAYIL SATHAR,
   37 YEARS, S/O V.P.M.ABDULLA,
   NEAR THEKKUMBAD KADAVU, MATTUL CENTRAL,
   P.O.MATTUL SOUTH, KANNUR DISTRICT.

3. KAYAKKARA PUTHIYA PURAYIL RUKHIYA,
   62 YEARS, W/O (LATE)V.P.M.ABDULLA,
   NEAR THEKKUMBAD KADAVU, MATTUL CENTRAL,
   P.O.MATTUL SOUTH, KANNUR DISTRICT.

4. KAYAKKARA PUTHIYA PURAYIL AFSATH,
   26 YEARS, W/O SUKKUR,
   NEAR THEKKUMBAD KADAVU, MATTUL CENTRAL,
   P.O.MATTUL SOUTH, KANNUR DISTRICT.

5. KAYAKKARA PUTHIYA PURAYIL SUBAIR,
   28 YEARS, S/O V.P.M.ABDULLA,
   NEAR THEKKUMBAD KADAVU, MATTUL CENTRAL,
   P.O.MATTUL SOUTH, KANNUR DISTRICT.

BY ADV. SRI.V.N.RAMESAN NAMBISAN

RESPONDENTS: RESPONDENT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY P.P. SRI. M.S.BREEZ.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 19/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 3469 OF 2007

Dated this the 19th day of November, 2007

ORDER

The petitioners are the complainant and accused 1 to 4 in a prosecution under Sec.498A of the IPC. Cognizance has been taken by the learned Magistrate. The case is pending as C.C. No.461/05 before the Judicial Magistrate of the First Class, Payyannur. The petitioners together have come before this Court to report to this Court that they have settled the disputes between them. The 1st petitioner/wife and the 2nd petitioner/husband have settled their disputes and have resumed cohabitation, it is submitted. It is prayed that invoking the powers under Sec.482 of the Cr.P.C. the settlement may be recognized and the composition may be accepted. It is prayed that the premature termination of the proceedings may be brought about by quashing the

proceedings.

2. The same counsel appears for all the petitioners. The learned counsel submits that the matter has been settled. He vouches on behalf of the 1st petitioner that there has been settlement and composition. He vouches for the identity of the 1st petitioner/complainant also.

3. I am satisfied from the averments in the petition and the submissions made at the Bar that the parties have willingly and voluntarily settled their disputes. If legally permissible, I am satisfied that the composition can be accepted and premature termination of the proceedings can be brought about.

4. The offence under Sec.498A of the IPC is not compoundable. But the learned counsel submits that the decision in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386) justifies the invocation of the powers under Sec.482 of the Cr.P.C. The rationale underlying the said decision is that the interests of justice may at times transcend the interests of mere law and in such exceptional cases powers under Sec.482 of the Cr.P.C. can be invoked and Sec.320 of the Cr.P.C. cannot be a fetter to the invocation of such power.

5. I am satisfied that this is an eminently fit case where the harmonious settlement of the disputes between the spouses

can be accepted and the proceedings brought to premature termination.

6. In the result:

(i) This Crl.M.C. is allowed.

(ii) C.C.No.461/05 pending before the Judicial Magistrate of the First Class, Payyannur, against the petitioners is hereby quashed.

7. The prayer in the petition, it would appear, is only to direct the learned Magistrate to dispose of the case after withdrawing the non-bailable warrant issued against some of the accused. In the course of arguments, the learned counsel for the petitioners seeks the relief for quashing the proceedings.

8. Hand over a copy of this order to the learned counsel for the petitioners.

Sd/-

(R. BASANT, JUDGE)

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//true copy//

P.S. to Judge